

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

DAVID DAVIS,

Plaintiff,

vs.

PHENIX CITY, ALABAMA, et al.

Defendants.

CIVIL ACTION NO. 3:06-cv-00544-~~VPM~~ WHA

**DEPOSITIONS OF DEFENDANTS WALLACE HUNTER,  
H.H. ROBERTS, AND JEFFREY HARDIN, AND  
DEPOSITIONS OF ROY WATERS AND BARBARA GOODWIN**

Respectfully submitted,

Thomas A. Woodley  
Molly A. Elkin  
Bryan G. Polisuk  
WOODLEY & MCGILLIVARY  
1125 15th Street, N.W.  
Suite 400  
Washington, D.C. 20005  
Tel: (202) 833-8855  
Fax: (202) 452-109

J. Michael Cooper, Esq.  
FITZPATRICK, COOPER & CLARK LLP  
Farley Building, Suite 600  
1929 Third Avenue North  
Birmingham, Alabama 35203  
Telephone (205) 320-2255  
Fax: (205) 320-7444

Counsel for Plaintiff

# EXHIBIT

## Deposition of Wallace Hunter

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

 **COPY**

DAVID DAVIS,

Plaintiff,

vs.

CASE NO. 3:06-CV-0054-VPM

CITY of PHENIX CITY, ALABAMA,

et al.,

Defendants.

\* \* \* \* \*

DEPOSITION OF WALLACE BURNS HUNTER, SR., taken  
pursuant to stipulation and agreement before Shannon  
M. Williams, Certified Court Reporter and  
Commissioner for the State of Alabama at Large, in  
the offices of City Hall, 601 12th Street, Phenix  
City, Alabama, on Wednesday, April 4, 2007,  
commencing at approximately 10:45 a.m. EST.

\* \* \* \* \*

1 APPEARANCES

2 FOR THE PLAINTIFF:

3 THOMAS A. WOODLEY  
4 Woodley & McGillivray  
5 1125 15th Street N.W.  
6 Suite 400  
7 Washington, D.C. 20005

8 FOR THE DEFENDANTS:

9 JAMES P. GRAHAM, JR.  
10 712 13th Street  
11 P.O. Box 3380  
12 Phenix City, Alabama 36868-3380

13 ALSO PRESENT:

14 David Davis  
15 H.H. Roberts  
16  
17  
18  
19  
20  
21  
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23  
24  
25

## 1 STIPULATIONS

2 It is hereby stipulated and agreed by and  
3 between counsel representing the parties that the  
4 deposition of WALLACE BURNS HUNTER, SR., is taken  
5 pursuant to the Federal Rules of Civil Procedure and  
6 that said deposition may be taken before Shannon M.  
7 Williams, Certified Court Reporter and Commissioner  
8 for the State of Alabama at Large, without the  
9 formality of a commission; that objections to  
10 questions other than objections as to the form of  
11 the questions need not be made at this time but may  
12 be reserved for a ruling at such time as the  
13 deposition may be offered in evidence or used for  
14 any other purpose as provided for by the Federal  
15 Rules of Civil Procedure.

16 It is further stipulated and agreed by and  
17 between counsel representing the parties in this  
18 case that said deposition may be introduced at the  
19 trial of this case or used in any manner by either  
20 party hereto provided for by the Federal Rules of  
21 Civil Procedure.

22 \* \* \* \* \*

1 WALLACE BURNS HUNTER, SR.

2 The witness, having first been duly sworn  
3 or affirmed to speak the truth, the whole truth and  
4 nothing but the truth, testified as follows:

5 THE REPORTER: Usual stipulations?

6 MR. GRAHAM: We do want to read and sign.  
7 He's our designated 30(b)(6).

8 MR. WOODLEY: I'm going to go into that in  
9 just a couple minutes for the Record.

10 EXAMINATION

11 BY MR. WOODLEY:

12 Q. Mr. Hunter, could you please state your  
13 full name for the Record, please, sir?

14 A. Wallace Burns Hunter, Sr..

15 Q. You're currently the fire chief of Phenix  
16 City Fire Department?

17 A. Yes, sir.

18 Q. Chief Hunter, my name is Tom Woodley, and  
19 I'm one of the attorneys representing the plaintiff,  
20 David Davis, in this pending federal court action.  
21 And I assume that you're aware that you are named as  
22 an individual defendant in your individual capacity  
23 as well as your official capacity in this lawsuit;  
24 is that correct?

25 A. Yes, sir.

1 Q. Are you at least in general familiar with  
2 the allegations and the issues that have been raised  
3 in this lawsuit?

4 A. Yes, sir.

5 Q. Have you had an opportunity to spend some  
6 time with the city attorneys about the issues in the  
7 lawsuit and the procedures that we'll be following  
8 today in your deposition?

9 A. Yes, sir.

10 Q. Have you ever had your deposition taken  
11 before in another case?

12 A. Yes, sir.

13 Q. Is that more than one other case?

14 A. I guess it was basically -- yes, it was  
15 one, I guess, or -- two cases were basically  
16 combined, yes.

17 Q. So in light of that experience and the  
18 chance that you have had to spend with the city  
19 attorneys, is it fair to say that you are familiar  
20 with the procedures that we're going to be following  
21 today in your deposition?

22 A. Yes, sir.

23 Q. Again, you sat in on the earlier deposition  
24 of the mayor and so you saw how that went. I'll be  
25 asking questions. We expect you to give full,

1 A. No, sir.

2 Q. And, of course, lastly, you're obviously  
3 under oath and therefore sworn to tell the truth  
4 under the potential penalty of perjury. Do you  
5 understand that, Chief Hunter?

6 A. Yes, sir.

7 Q. Okay. Let's refer to the notice of  
8 depositions because the city has designated you as  
9 the Rule 30(b)(6) deponent. And you can turn to the  
10 binder of exhibits that we have in front of you,  
11 which the first exhibit is Exhibit Number 1. And on  
12 page two of that Notice of the Deposition, it  
13 indicates certain paragraphs that you have been once  
14 again selected by the city and the other defendants  
15 as the Rule 30(b)(6) representative to give  
16 knowledgeable and authoritative testimony on the  
17 issues that are involved in this case.

18 And I want to summarize those areas just so you  
19 are again aware of the subjects that you have been  
20 authorized to be the Rule 30(b)(6) witness. And  
21 that would be the employment of plaintiff David  
22 Davis and the circumstances surrounding his  
23 termination by the Phenix City Fire Department. Do  
24 you understand that, sir?

25 A. Yes, sir.



1 Q. And then in subparagraph (b) of the notice,  
2 it also indicates that you're the representative  
3 witness giving testimony on any communications that  
4 Mr. Davis has had with the mayor, the city council,  
5 persons in the city manager's office, persons in the  
6 city's Human Resource Department and directors or  
7 persons in the city Fire Department. Do you  
8 understand that as well?

9 A. Yes, sir.

10 Q. And the third area would be communications  
11 that Mr. Davis has had regarding staffing in the  
12 fire department, health and safety of fire and  
13 rescue service personnel, the adequacy and  
14 efficiency of fire department operations to protect  
15 the citizens in this city, and response times and  
16 other personnel and employee morale in the fire  
17 department. Do you understand that as well, Chief  
18 Hunter?

19 A. Yes.

20 Q. The additional area that you have been  
21 designated is communications about fire department  
22 matters involving the employees and other issues.  
23 You're aware of that as well?

24 A. Yes, sir.

25 Q. And then you've also been designated as the

1 witness concerning communications that relate in any  
2 way to the phone conversation that Mr. Davis had  
3 with one of the other defendants, Mayor Jeffrey  
4 Hardin, on or about April 17, 2006, regarding the  
5 proposed extension of the probationary period. Do  
6 you understand that as well, Chief Hunter?

7 A. That's correct, yes, sir.

8 Q. And then lastly would be the subject of the  
9 facts and documents which relate in any way to the  
10 chain of command within the fire department. You're  
11 aware of that as well, Chief Hunter?

12 A. Yes, sir.

13 Q. Let me invite your attention to another  
14 exhibit within the binder in front of you. And I  
15 should say again for the Record that the city  
16 attorney also has a full set of these exhibits for  
17 his review during the deposition.

18 Exhibit 6, Chief Hunter, appears to be a job  
19 description of the job title of fire chief that has  
20 been furnished to me by the city in this case. Are  
21 you familiar with this job description?

22 A. Yes, sir.

23 Q. As far as you know, Chief Hunter, is this  
24 an accurate job description of what you do as the  
25 fire chief?

1 A. Yes.

2 MR. GRAHAM: Make sure you read it now.

3 Q. Again, Chief Hunter, when I ask you about  
4 these papers and exhibits, make sure that you have  
5 an adequate time to review them before you respond  
6 to my questions.

7 Chief Hunter, have you had an adequate time to  
8 review your job description?

9 A. Hold on one second.

10 Q. Okay. I'm sorry.

11 A. Yes, sir.

12 Q. Okay. So the general question I have, is  
13 this a fairly accurate and complete description of  
14 your job as the fire chief?

15 A. Somewhat. It's always if the city manager  
16 give you any other details to do, any extra, it may  
17 not be written in here but you have --

18 Q. And in line of authority, this job  
19 description says you, as the fire chief, report to  
20 the city manager; is that correct?

21 A. That is correct.

22 Q. And how long have you been the fire chief?

23 A. Since -- officially, since May of 2005.

24 Q. Okay. Why don't you just go back and trace  
25 for us your career in the city's fire department,

1 how you moved up to the top position?

2 A. Okay. I started here in June of 1986. I  
3 worked as a firefighter until April of -- I think it  
4 was April of '89, I believe. And I worked as a  
5 driver/engineer from April of '89 until 1995, I  
6 became a captain through promotions. And I worked  
7 as a captain until 1998. I became an assistant  
8 chief. And then from '98 to 2001 -- in 2001, I  
9 became interim fire chief, and for a brief time in  
10 2001, I was the fire chief.

11 And I went from there, from being fire chief, I  
12 stepped out of that position and I went to being a  
13 deputy chief. And I stayed at the deputy chief  
14 until my current appointment as fire chief.

15 Q. Okay. And you may have said this, but I  
16 may have missed it. When were you first appointed  
17 as the fire chief?

18 A. This time?

19 Q. Yes.

20 A. In May of 2005.

21 Q. Okay. And within your duties and  
22 responsibilities as a fire chief here in the city,  
23 are you responsible for the recruitment, selection,  
24 and hiring and promotion of personnel within the  
25 fire department?

1 A. That's correct.

2 Q. Do you have the final decisionmaking  
3 authority as to hiring in the fire department?

4 A. That's correct.

5 Q. Do you have the final decisionmaking  
6 authority as to terminations of employees in the  
7 fire department?

8 A. As far as recommendations as far as  
9 termination.

10 Q. So you make a recommendation if an  
11 individual should be terminated from the fire  
12 department?

13 A. Yes, sir.

14 Q. And who do you make that recommendation to?

15 A. I make that recommendation to the city  
16 manager.

17 Q. And is it your understanding that the city  
18 manager has the final decisionmaking authority to  
19 terminate an employee from the fire department?

20 A. Basically the way I have done things since  
21 I have been in as chief is make the recommendation  
22 and always run things through the city attorney.

23 Q. I'm sorry?

24 A. We make a recommendation -- I make a  
25 recommendation to the city manager, and we always

1 try to make sure we run things through the city  
2 attorney.

3 Q. Okay. But in terms of the individual who  
4 has the final decisionmaking authority within the  
5 city's structure concerning a possible termination  
6 of a City employee, is it your understanding that it  
7 is the city manager who makes that final decision?

8 A. Well, I just can't put that on the city  
9 manager. I make a recommendation. It's my  
10 department. And when it's reached that point, if it  
11 reach that point for terminate action, we go through  
12 the city manager to make sure it's okay.

13 Q. But who has the final sign off on somebody  
14 being fired in the fire department?

15 A. I guess it would be the city manager.

16 Q. Okay.

17 A. I guess.

18 Q. Do you, as fire chief, have authority to  
19 issue other forms of discipline without the input  
20 and approval of the city manager such as suspensions  
21 or written reprimands?

22 A. Yes, sir.

23 Q. And where does your authority stop? Is it  
24 at the level of someone being terminated where you  
25 say the city manager has to make that choice?

1 A. Well, that's a last resort that you want to  
2 go to is termination. So when you get to that  
3 point, you must always make sure you go through the  
4 city manager with that, let him know that.

5 Q. But if you as fire chief wanted to suspend  
6 someone, you don't have to go through the city  
7 manager to suspend a firefighter, do you?

8 A. No. But I inform the city manager.

9 Q. And as a long-time veteran employee of the  
10 city's fire department, are you aware that the  
11 plaintiff, David Davis, had worked for a number of  
12 years for the city Fire Department?

13 A. Yes, sir.

14 Q. Do you know how many years he was employed  
15 in the city Fire Department?

16 A. I think it was about 8 years --

17 Q. Okay.

18 A. -- if I'm correct.

19 Q. If I mention that Mr. Davis was hired in  
20 the city Fire Department in April of 1998, would  
21 that sound about right to you?

22 A. Yes, sir, somewhere in there.

23 Q. Are you aware that Mr. Davis was promoted  
24 to the rank of sergeant in the city Fire Department?

25 A. That's correct.

1 Q. Did you have any input into that promotion  
2 of Mr. Davis?

3 A. That's correct.

4 Q. Did you recommend that he be promoted to  
5 sergeant?

6 A. That's correct.

7 Q. And why did you do that?

8 A. Because he had met the requirements.

9 Q. Did you think he was doing a good job and  
10 deserved to be promoted to sergeant?

11 A. That's correct.

12 Q. Do you remember approximately when that  
13 was, at least the year that he was promoted to  
14 sergeant?

15 A. I guess somewhere around -- if I'm correct,  
16 2002 or 2003, somewhere in there.

17 Q. Okay. Let me invite your attention to  
18 another exhibit, Chief Hunter, which would be  
19 Exhibit 18, and this appears to be a memo from  
20 Deputy Chief Roy Waters addressed to yourself as the  
21 fire chief dated February 6, 2006. And the re line  
22 is, quote, letter to Mr. H.H. Roberts, end quote.

23 A. Hold on. Let me see.

24 Q. Exhibit 18.

25 A. Okay. Yes. I got it.



1 Q. And it's addressed to you, so I assume you  
2 received this on or about February 6, 2006; is that  
3 correct?

4 A. Yes.

5 Q. Okay. And you'll see at the very tail-end  
6 at the bottom of this first page of this memo from  
7 Deputy Chief Waters to yourself, he indicates,  
8 quote, as I have communicated to you on several  
9 occasions, David Davis is doing an outstanding job  
10 for me and has a very positive and professional  
11 attitude, end quote. Do you see where it says that?

12 A. Yes, sir.

13 Q. As far as you know, was Deputy Chief Roy  
14 Waters speaking honestly and truthfully when he made  
15 that statement to you in the memo?

16 A. I believe so.

17 Q. Okay. And did you, sir, agree with that  
18 statement coming from your Deputy Chief, Mr. Waters,  
19 about the job performance of Mr. Davis up to at  
20 least February 6, 2006?

21 A. I was happy about it.

22 Q. You were happy about it?

23 A. Yes, sir.

24 Q. But did you agree with it as far as you  
25 knew as the fire chief, that Mr. Davis was doing a

1 good job and had a very positive and professional  
2 attitude?

3 A. I took Chief Waters' word for that, yes.

4 Q. Did you have any reason to disagree?

5 A. No, sir.

6 Q. Okay. Does the city and its fire  
7 department have a policy of giving annual  
8 evaluations of the firefighters employed in the  
9 department?

10 A. That's correct.

11 MR. WOODLEY: Okay. Let's go off the  
12 record for a second.

13 (Discussion held off the record.)

14 MR. WOODLEY: We can go back on the record.

15 Q. Chief Hunter, let me move to a different  
16 subject matter. At some point in time, were you  
17 aware that the Phenix City Fire Department employees  
18 formed a labor organization in which they became  
19 members of the labor association?

20 A. Yes, sir. I was a part of it.

21 Q. You were a part of it yourself?

22 A. Yes, sir.

23 Q. You were a member?

24 A. Yes, sir.

25 Q. Do you remember when you first became a

1 member of the firefighters' local union?

2 A. It was back when they began it, when it  
3 began. I couldn't tell you the exact date.

4 Q. Is this years ago or --

5 A. Yes, sir. Current -- current association  
6 that's in place.

7 Q. And would that be Local 3668 affiliated  
8 with the International Association of Firefighters?

9 A. That is correct.

10 Q. Are you still a member of that union?

11 A. I'm in International now. International  
12 Fire Chiefs Association.

13 Q. Okay. So at some point in time, you  
14 dropped out of the local union that consisted of the  
15 firefighters?

16 A. Yes, sir.

17 Q. Do you remember roughly when you left that  
18 local firefighters' organization?

19 A. When I became an officer. It was somewhere  
20 in -- I can't remember the exact date, but --

21 Q. Okay. Did it come to your attention at  
22 some point in time that Mr. David Davis became a  
23 vice-president of the firefighters' local labor  
24 organization?

25 A. Yes, sir.

1 Q. Did it also come to your attention at some  
2 point that Mr. Davis became the president of the  
3 firefighters' local labor organization?

4 A. Yes, sir.

5 Q. And do you remember roughly when that was  
6 that you were informed that he was the new president  
7 of the local union?

8 A. I can't tell you an exact date, but I  
9 remember, you know, knowing about it, you know, not  
10 too much.

11 Q. Do you remember how it came to your  
12 attention? Did someone tell you he was the new  
13 president of the local union?

14 A. I believe so. I probably overheard some  
15 talk in the stations.

16 Q. Does the city recognize the firefighters'  
17 local union as a representative of the firefighters?

18 A. No, sir.

19 Q. And why not?

20 A. Mr. Roberts explained that in the letter.

21 Q. Have you ever had meetings or conversations  
22 with David Davis, in his capacity as the president  
23 of the local labor organization, about any issues or  
24 concerns that the firefighters had?

25 A. Have I had a meeting with him?

1 Q. Yes.

2 A. No, sir.

3 Q. Have you had any conversations with  
4 Mr. Davis in his role as the president of the local  
5 union about issues that were of concern to the  
6 members of the fire department?

7 A. No, sir. I never was given a chance to.

8 Q. Okay. Well, could you elaborate on that?

9 A. Just -- I just never was given a chance.  
10 If it was some concerns from that direction, I never  
11 was given -- was asked to have a meeting.

12 Q. Was what?

13 A. No one ever asked to have a meeting with  
14 me.

15 Q. So Mr. Davis never asked to sit down with  
16 you and talk about morale or staffing levels or any  
17 issues like that?

18 A. No, sir.

19 Q. Have you ever had collective meetings with  
20 the firefighters about issues of concern they might  
21 have in the fire department?

22 A. The way the chain of command work, mostly  
23 any issues or concerns that firefighters have, they  
24 are to give those to the captains and they'll pass  
25 it on to the assistant chiefs, and the assistant

1 chiefs come directly to myself. Or unless we was  
2 having -- if they are having a shift meeting or  
3 something that I would attend, I would attend and  
4 hear people's views then. I'm very open.

5 Q. You have an open door policy?

6 A. I'm open to people's views, yes, sir, if  
7 I'm given a chance.

8 Q. Did you ever invite Mr. Davis or any other  
9 leaders of the local firefighters union to come in  
10 and discuss issues with you?

11 A. I had no reason to. I wasn't -- like I  
12 say, I wasn't given a chance of these concerns.

13 Q. But there were, in fact, a lot of newspaper  
14 articles, right, that firefighters were expressing  
15 their concerns about employee morale and shift  
16 schedules and staffing levels? In fact, you were  
17 interviewed for those articles. Did that give you  
18 occasion to bring in the firefighters or local union  
19 leaders and sit down and just chat about those  
20 issues?

21 A. When that came about, sir, it just came out  
22 of nowhere basically. And the article was there  
23 before I was ever given a chance to address  
24 anything.

25 Q. But you, in fact, had a chance, after the

1 newspaper articles came out, and you were aware of  
2 these concerns --

3 A. That's correct.

4 Q. -- about a lot of firefighters?

5 A. That's correct. And we did have a  
6 counseling session with some of the concerns that  
7 was in the newspapers, and I opened the door at that  
8 time to them. If that's what they wanted to talk  
9 about, they just use the chain and come up through  
10 the assistant chiefs, and we could talk about those  
11 issues. Because you've got to understand, I've got  
12 to address more than -- I got to address all  
13 personnel.

14 Q. Right. Would you turn your attention to  
15 Exhibit 11, which appears to be a memo from David  
16 Davis in his position as vice-president of Local  
17 3668, the Phenix City Firefighters' Association.  
18 It's dated January 25, 2005, and it's addressed to  
19 then Chief Jerry Prater.

20 A. Yes, sir.

21 Q. Have you ever seen this memo before today?

22 A. Yes. Chief Prater had this memo.

23 Q. Did Chief Prater give you a copy of it?

24 A. I've seen the one that he had.

25 Q. And did you discuss it with Chief Prater at

1 that time?

2 A. Yes, sir.

3 Q. Okay. And you'll see there that Mr. Davis,  
4 on behalf of the firefighters' association, is  
5 submitting a proposal which he describes is under  
6 the Code of Alabama and asking for a meeting  
7 concerning various safety issues, general employment  
8 issues, discipline, communications, all of the items  
9 that he lists on this document. You see where it  
10 says that?

11 A. Yes, sir.

12 Q. And when you say you saw the copy that  
13 Chief Prater had, did you have a conversation with  
14 Chief Prater about the issues addressed in this  
15 memo?

16 A. Yes, sir. Chief Prater had a conversation  
17 with Sergeant Davis about this.

18 Q. Were you involved in that discussion?

19 A. No, sir.

20 Q. Did you have any communications with  
21 Mr. Davis or the local union about these issues?

22 A. No, sir.

23 Q. So Chief Prater handled it as far as you're  
24 concerned?

25 A. Yes, sir.



1 Q. Are you aware, sir -- I'm not asking you to  
2 be a lawyer on this question. But are you aware  
3 that, at least in a general sense, that under the  
4 state Code of Alabama that public employees, such as  
5 firefighters in particular, have the right to form a  
6 labor organization and be members of a labor  
7 association?

8 A. Yes, sir. Everybody that's under my  
9 direction, as far as firefighter, is two-fold. They  
10 have the right to be a part and they have the right  
11 to not be a part, and I represent all.

12 Q. Right. And are you aware under that same  
13 provision of the State of Alabama Code that the  
14 firefighters not only have a right to be a part of a  
15 labor association but also have the right to have a  
16 representative to make proposals to a city or county  
17 employer about issues of concern? Are you aware of  
18 that?

19 A. Correct.

20 Q. And have you been aware of that for a  
21 number of years?

22 A. Yes, sir, I have.

23 Q. Let me invite your attention, Chief Hunter,  
24 to Exhibit 14, which appears to be at least the  
25 first newspaper article, an article from the

1 Columbus Ledger-Enquirer. And although I don't see  
2 a date on the top of this, my understanding -- and  
3 we'll get to this in a few more questions, is that  
4 it came out in September of 2005. And you'll see  
5 that you apparently were interviewed as the chief of  
6 the Phenix City Fire Department for the purpose of  
7 putting this newspaper article together. Do you  
8 remember that?

9 A. Yes, sir.

10 Q. You'll see in the second column of this  
11 article from the newspaper that the reporter at  
12 least indicates the department is in turmoil; and  
13 then further down in that second column, there's a  
14 quote from Mr. Davis, quote, morale is at the lowest  
15 point since I have been here, end quote. And it  
16 indicates he's a seven-year veteran and president of  
17 the Phenix City Firefighters' Association. Do you  
18 see where it says that?

19 A. Correct. Yes, sir.

20 Q. When you were interviewed and then when you  
21 read this newspaper article, did you agree or  
22 disagree that morale in the fire department was low?

23 A. For some, it might have been. Not for all.

24 Q. Do you know if a majority of the  
25 firefighters in the city Fire Department are members

1 of the labor organization that they formed?

2 A. I think, if I'm going back, the number  
3 was -- that we got at the review board was -- at the  
4 time was probably about one-third.

5 Q. At the review board? The Personnel Board  
6 hearing for Mr. Davis?

7 A. That's correct.

8 Q. Do you know at some point in time that  
9 there was a majority support among the firefighters  
10 in the fire department as being members of the labor  
11 organization?

12 A. At one time, it might have been.

13 Q. It indicates further in this article that  
14 you, Chief Hunter, were the fourth chief in the last  
15 seven years. Is that accurate?

16 A. Yes, sir.

17 Q. Why such a high turnover?

18 A. Basically, we've had some -- well, we had  
19 some -- I guess some problems and misunderstandings,  
20 and we had -- at this time, I hadn't been in the job  
21 but three months.

22 Q. As the fire chief?

23 A. Yes, sir.

24 Q. And you succeeded Prater?

25 A. Yes, sir.

1 Q. Do you know what the circumstances were of  
2 why Mr. Prater was no longer the fire chief?

3 A. He signed on for three years. And after  
4 his time was up, he decided to go.

5 Q. What is Mr. Prater doing now? Is he in the  
6 fire department?

7 A. He's retired.

8 Q. He's retired?

9 A. Yes, sir.

10 Q. It indicates further in the article, quote,  
11 over the last five years, 29 firefighters have left  
12 for a variety of reasons, including retirement and  
13 medical disability, end quote. Is that roughly an  
14 accurate statement?

15 A. It might be. It might be different people  
16 for different reasons. Retirement, terminations,  
17 other -- better jobs. You know, the figures they  
18 put in there wasn't -- they can be distorted.

19 Q. It also indicates in this article the city  
20 has spots for 51 firefighters. Is that accurate?

21 A. At that time, it probably was.

22 Q. Is it larger now?

23 A. Yes, sir.

24 Q. What's the number?

25 A. Total, when we're at full capacity, it

1 would be 65.

2 Q. And then going back to the rough date of  
3 this article -- again, it's, I believe, September  
4 2005 -- it indicates in the right-hand column of the  
5 article that 44 are currently on the force. In  
6 other words, 44 actively employed fire personnel out  
7 of 51 spots in the city Fire Department. Was that  
8 roughly correct?

9 A. That's correct, but what it didn't tell  
10 there was the hiring process was in place. We was  
11 having people hired, and it takes several months to  
12 have them trained and bring them in. So that number  
13 wasn't put in there.

14 Q. But at that point in time, there was seven  
15 positions not filled within the fire department?

16 A. Not necessarily not filled, but -- because  
17 we had -- I believe we had three people in training,  
18 if I'm correct, at that point.

19 Q. But was the fire department understaffed at  
20 that point? There was not a full complement of  
21 actively employed firefighters?

22 A. It was just like most of the fire  
23 departments that are around; the majority you check  
24 will be understaffed because of the hiring process.

25 Q. As a fire chief, do you always like to have

1 a full complement of fire personnel to do the job?

2 A. It would be very nice, but it's not -- it's  
3 been pretty tough throughout the country.

4 Q. Right now, is there a full complement in  
5 the department?

6 A. No, sir. We have people in training now.  
7 I have -- we have people in training right now.

8 Q. So right now, what is the number of  
9 understaffed that are not full firefighters  
10 training?

11 A. Three.

12 Q. Three. Later on in the article on page  
13 two, it indicates that, quote, Davis puts it this  
14 way -- it's about two inches down that first column  
15 --

16 A. Okay, got it.

17 Q. -- quote, we are reluctant to talk because  
18 the significant fear of retaliation, being  
19 disciplined or fired, end quote. See where it says  
20 that?

21 A. Yes, sir.

22 Q. Are you aware of any circumstances that  
23 would have supported the statement of Mr. Davis and  
24 some of these other firefighters that they were  
25 fearful of retaliation or being disciplined or

1 fired?

2 A. No, sir. I don't see any reason for them  
3 to be -- have that, because if anybody wanted to  
4 talk, I was right over there in my office. So if  
5 they followed the chain of command and used the  
6 assistant chiefs that was in line, I would talk to  
7 anyone.

8 Q. But are you telling me that the  
9 firefighters like Sergeant Davis, they can't come  
10 directly in to you, I guess, and go in your office  
11 and say, Chief, we have an issue of concern about  
12 public safety?

13 A. All they had to do is use --

14 Q. They've got to go through the chain of  
15 command?

16 A. That's all they've got to do. It's  
17 simple. It's easy.

18 Q. So you can't talk to a firefighter directly  
19 because that would not be --

20 A. It's easy --

21 Q. -- through the chain of command?

22 A. Sir, if someone had genuine concerns and  
23 they channeled that up to the captain and assistant  
24 chiefs, I'll get in my vehicle and go to the  
25 stations and talk to them.

1 Q. Okay. On page two of this newspaper  
2 article over in the right-hand column, it indicates  
3 that since January 2000, 21 employees have  
4 resigned. Do you know if that's roughly an accurate  
5 statement?

6 A. Resigned? I think that mainly should be --  
7 that's incorrect. That mainly should be referring  
8 to that front page that would be -- part of that  
9 would be people that's either terminated, people  
10 that's gotten better jobs, people that's left for  
11 medical reasons. But as far as resigned, no. It's  
12 too good of a job. You won't see that many people  
13 resign from it.

14 Q. Later on, it has a quote from a Sergeant  
15 Ann Land, L-A-N-D. Is she still employed in the  
16 fire department?

17 A. That's correct.

18 Q. At the bottom of the second page, she's  
19 quoted in this newspaper article as saying, quote,  
20 basically, if you are not happy, you -- and it's cut  
21 off, I think, unfortunately on this copy -- to  
22 leave; that is what we have been, I think, told  
23 several times, end quote. See where it says that?

24 A. Basically if you was unhappy, you could  
25 leave, I guess, what has been told to them. I



1 guess when -- currently, she's Firefighter of the  
2 Year, so she made some adjustments as well as the  
3 Department and --

4 Q. But she was obviously interviewed for this  
5 newspaper article, correct?

6 A. That's correct.

7 Q. And, apparently, she was of the view, at  
8 least at that time --

9 A. That's right.

10 Q. -- that the view in the department was if  
11 you don't like it, you can leave?

12 A. It wasn't the view of the department. I  
13 guess that's the way --

14 Q. But it was her view apparently?

15 A. -- some people took it -- well, and --

16 Q. Okay. And then further on in this article,  
17 it talks about the firefighters expressing concern  
18 about the elimination of swap time. You're familiar  
19 with swap time, right?

20 A. That's correct.

21 Q. That's trading in time among firefighters?

22 A. That's correct.

23 Q. Was, in fact, the swap time privilege or  
24 right eliminated by the department?

25 A. At one time it was.

1 Q. Is it in place now or is it still  
2 eliminated?

3 A. It's in place. It's a better -- we have a  
4 better setup for it this time.

5 Q. What's the current setup for swap time?

6 A. We have a set amount of hours that's set to  
7 use.

8 Q. What?

9 A. We have a set amount of hours that you can  
10 take. It's also better set up in payroll to make  
11 sure everything works out right, so --

12 Q. But back in -- as of September of 2005 when  
13 this newspaper article came out, swap time was  
14 eliminated; is that accurate?

15 A. For a while, yes.

16 Q. Why was it eliminated, sir?

17 A. Chief Prater felt like there were some  
18 things going on the swap time, that it was time  
19 to --

20 Q. What were the things going on?

21 A. -- to move it for a while. Like if people  
22 wasn't keeping, I guess, accurate paperwork. It  
23 wasn't -- training didn't have it -- it wasn't --  
24 you have to have a certain amount of training per  
25 month, okay. It was -- they had to put a -- make

1 sure a cap was kept on top of it, which we always  
2 tried to do. So it was some things just went on  
3 with it that he felt like needed to be taken away  
4 for a while.

5 Q. But in the newspaper article, it refers to  
6 the fact that council member Ray Bush tried to  
7 mediate the differences between the firefighters and  
8 the city. Are you aware that that occurred?

9 A. I've heard that Ray Bush attended a  
10 meeting, but as far as -- I never met with Ray Bush.

11 Q. Okay. But you heard information that  
12 Council Member Bush attended a meeting with  
13 firefighters to address the issues they were  
14 raising?

15 A. That's correct.

16 Q. Do you know if anything came out of that  
17 meeting that was useful or productive?

18 A. Not that I know of. I don't --

19 Q. Okay. Fair enough. You'll see also in  
20 Exhibit 14 that there's a collection of letters  
21 submitted by various individuals to newspapers about  
22 issues of concern within the Phenix City Fire  
23 Department. Were you generally aware of these  
24 letters to the editor and did you have a chance at  
25 the time to review those letters?

1 A. At times, I would look at some of them,  
2 yes, sir. Read some of them because --

3 Q. Because of these newspaper articles that  
4 were occurring back in 2005, did you participate in  
5 any meetings with the fire chief at the time, or the  
6 city manager, in which these newspaper articles and  
7 media reports were addressed?

8 A. As far as these articles?

9 Q. Yes.

10 A. As far as just -- I didn't have to have any  
11 special meetings on it. Just something mentioned  
12 that things are in the paper. That's about it.

13 Q. Well, as a result of the article in  
14 September 2005, Exhibit 14, which contains  
15 quotations from David Davis and other firefighters,  
16 were you asked to conduct any kind of an  
17 investigation or review of these comments that the  
18 firefighters made in the media reports?

19 A. I wasn't asked. I did one.

20 Q. You did it on your own?

21 A. Yes. I basically needed to -- I'm the  
22 department head. I needed to ask why was this done  
23 without me being given a chance first to meet with  
24 someone over these issues. That was a concern of  
25 mines. And then not only that, it was something I

1 needed to discuss with some of the people that was  
2 in the paper. You got your freedom of speech, but  
3 at the same time, you gotta watch impeding the  
4 harmony within this department and the city. And it  
5 was a concern. And that's why I had the meetings  
6 and counseling sessions.

7 Q. Let me invite your attention to Exhibit 15,  
8 which appears to be a memo from you as the fire  
9 chief to -- it says member singular, but I believe  
10 it was to members -- of the Phenix City Fire  
11 Department; is that correct? Is this a memo that  
12 you distributed to the --

13 A. That's correct.

14 Q. -- members of the fire department?

15 A. That's right.

16 Q. You have to wait until I finish answering  
17 my questions before you start your answer;  
18 otherwise, we'll get in trouble with Madam  
19 Reporter.

20 A. Okay.

21 Q. This memo, Exhibit 15, is dated  
22 September 20, 2005. Is this, in fact, a memo that  
23 you drafted and distributed to the members of the  
24 fire department?

25 A. Yes, sir.

1 Q. And it addresses the article that appeared  
2 recently apparently in the Ledger-Enquirer newspaper  
3 regarding the city's fire department. Is that  
4 accurate?

5 A. That's correct.

6 Q. Then it goes on to say, quote, several  
7 firefighters made comments in the paper that were  
8 likely to impair discipline and harmony in the  
9 workplace, impede job performance, and jeopardize  
10 loyalty in this department, end quote. You see  
11 where it says that?

12 A. That's correct.

13 Q. And, again, this would have been in  
14 response to your review of this newspaper article  
15 that we just covered in Exhibit 14 --

16 A. That is correct.

17 Q. -- is that accurate?

18 A. That's correct.

19 Q. What comments made by Mr. Davis and the  
20 other firefighters that were quoted in this  
21 newspaper article in your judgment impaired  
22 discipline and harmony in the fire department?

23 A. Basically the comments about people being  
24 afraid to talk. What was you afraid to talk when  
25 you're not talking to anybody? Why would you --

1 that's misleading people. Why would you be afraid  
2 to talk when you can use the chain of command and  
3 come up and talk to me at any time, if you was  
4 willing to give me a chance.

5 Q. But my question really is focused on -- and  
6 as you just indicated, a number of the firefighters,  
7 including Mr. Davis, expressed fears about potential  
8 retaliation and discipline. So on that isolated  
9 issue, how would that comment by Mr. Davis in the  
10 newspaper article impair discipline and harmony in  
11 the fire department?

12 A. It was misleading statements. Who had been  
13 disciplined for anything during my tenure -- short  
14 tenure so far? That's misleading.

15 Q. But he expressed fear about potential  
16 discipline and, in fact, he was fired later on as we  
17 know, but --

18 A. Well, no. That -- this right here was to  
19 prevent anything. This was to prevent us from even  
20 being here today.

21 Q. Okay. Give me a specific example of how  
22 those comments in the newspaper article of Mr. Davis  
23 actually, in fact, disrupted discipline or harmony  
24 in the workplace. Give me a real concrete, specific  
25 example of what you thought was an adverse

1 development from that newspaper article.

2 A. Okay. Let me go back to this article.

3 Now, what are you mainly talking about?

4 Q. I want you to give me a concrete, specific  
5 example that occurred after this newspaper article  
6 and the comments of Mr. Davis and the other  
7 firefighters that you believe actually disrupted or  
8 impaired the operation of this fire department --

9 A. They hadn't.

10 Q. -- as a result of the article and the  
11 comments in the paper?

12 A. This is the perception of people that's  
13 reading it.

14 Q. I'm sorry?

15 A. This is the perception of the readers.

16 Q. So what are you referring to there? A  
17 three alarm turmoil?

18 A. Basically. And that the morale -- the  
19 statements that are being made, what are you doing  
20 as an employee of the city or the fire department to  
21 help, you know, with that. So when you look at  
22 that, that's a disruption itself when you haven't  
23 given the people that you're working for any type of  
24 opportunity or chance to discuss these things.

25 Q. Were there fires not put out, rescues not



1 conducted because of that newspaper article and the  
2 quotations from Mr. Davis about employee morale and  
3 staffing?

4 A. No. We answer the calls.

5 Q. You answer the calls?

6 A. Yes, sir.

7 Q. Any other specific disruption that you can  
8 point to that you were really troubled by as the  
9 fire chief as a result of these newspaper articles  
10 and comments made by Davis and other firefighters?

11 A. As far as -- okay. Directly by Mr. Davis  
12 during the counseling session after this, I had a  
13 firefighter, Brandon Wilkerson, that said that he  
14 was being bullied by David Davis to make phone calls  
15 and complain. And I expressed this to David and we  
16 talked to him about this --

17 Q. Okay.

18 A. -- when he came in and we did his  
19 counseling session. So it was some things from this  
20 that came out of it.

21 Q. Anything else?

22 A. Mainly just as far as not wanting to  
23 communicate, but all of these different things in  
24 the paper here. But as fire chief, I wasn't given a  
25 chance to go over any of these issues or to talk

1 about them.

2 Q. Okay. But, again, can you give me any  
3 specific examples of disruption or impairment --

4 A. I just gave you --

5 Q. You have to let me finish my question,  
6 please, Chief Hunter.

7 A. Sorry.

8 Q. Other than what you've just mentioned, can  
9 you give me any other specific or concrete examples  
10 of impairment of the fire department or disruption  
11 of fire department operations that were resulting  
12 from the comments of Mr. Davis and the other  
13 firefighters in this newspaper article that came out  
14 in September of 2005?

15 A. That's another one -- okay. Another one in  
16 here, I guess, would be Councilman Bush being in  
17 here to mediate something. He's mediating something  
18 that I didn't know anything about.

19 Q. Did you speak to Council Member Bush  
20 about --

21 A. No.

22 Q. -- his role as mediator?

23 A. No, sir.

24 Q. Were you upset about that?

25 A. Well, no, I wasn't upset about it.

1 Q. Did you think his involvement was  
2 disruptive to your authority as fire chief?

3 A. Councilman Bush don't know the charter like  
4 I do.

5 Q. Did you speak to Council Member Bush  
6 about --

7 A. No, sir.

8 Q. -- his role?

9 A. It's not my authority. It's not in my  
10 realm of authority to speak to him about it.

11 Q. But at the time that he was trying to  
12 apparently be helpful as a mediator between the  
13 firefighters and fire department, do you think he  
14 was intruding upon the chain of command?

15 A. I don't know if he was being -- to me, I  
16 don't know if he was being helpful or harmful.

17 Q. Do you have any view on that right now?

18 A. No, sir.

19 Q. Okay. Did you consider at the time, back  
20 in September 2005, that Mr. Davis's comments and  
21 communications in that newspaper article were a  
22 violation of the city's Merit System rules and  
23 regulations?

24 A. Yes, sir.

25 Q. And why do you say yes?

1           A. Because it was something that could have  
2       been handled a different way. And, basically, like  
3       I say, they didn't give me a opportunity to come in  
4       there. And this right here is going to -- is going  
5       to disrupt your normal operation.

6           Q. So in other words, if I understand your  
7       testimony --

8           A. Because of other things that could have  
9       been done to prevent this.

10          Q. Okay. So if I understand your testimony,  
11       you think it's contrary to the city's Merit System  
12       rules and regulations if a firefighter like  
13       Mr. Davis would directly talk to the media about  
14       issues of public concern, fire department safety,  
15       health and welfare of the firefighters? You think  
16       that would be a violation of the Merit rules and  
17       regulations; is that correct?

18          A. If it's something that's going to impede or  
19       harm the operation of the department, yes, sir.

20          Q. Would it be a violation of the Merit System  
21       rules and regulations by a firefighter if he or she  
22       spoke directly to the media about inadequate  
23       staffing in the fire department?

24          A. Basically, that's something that they  
25       could -- they have the opportunity to talk to me

1 about, or the assistant chiefs.

2 Q. I understand your position, but you have to  
3 listen to my question, if you would, Chief Hunter.  
4 I want to know specifically your position and view  
5 as to whether or not it would be a violation of the  
6 city's Merit System rules and regulations if a  
7 firefighter in your fire department spoke directly  
8 to a media representative about the subject of  
9 inadequate staffing in the city fire department.

10 A. As far as our rules and regulations, we  
11 have persons who can talk to the media about  
12 staffing that handles that.

13 Q. You have a public relations representative  
14 in the fire department that can talk to the media?

15 A. Yes, sir.

16 Q. Let me try this one more time. It's real  
17 specific. Would it be a violation of the city's  
18 Merit System rules and regulations if a firefighter  
19 spoke directly to the media --

20 A. Yes.

21 Q. -- about the subject of inadequate staffing  
22 in the fire department?

23 A. Yes, sir.

24 Q. Would it be a violation of the city's Merit  
25 System rules and regulations if a firefighter

1 employed by the city's fire department spoke  
2 directly to a media representative about the health  
3 and safety of firefighters on the job?

4 A. Yes, sir.

5 Q. Would it also be a violation of those rules  
6 and regulations if a firefighter spoke directly to a  
7 newspaper or media representative about inadequate  
8 protective gear or inadequate fire department  
9 equipment and vehicles in the city fire department?

10 A. Yes, sir.

11 Q. I'm sorry?

12 A. Yes, sir.

13 Q. Would it also be a violation of the Merit  
14 System rules and regulations of the city if a  
15 firefighter spoke directly to a media representative  
16 about insufficient financial resources or inadequate  
17 budget in the city's fire department?

18 A. Yes, sir.

19 Q. Would it also be a violation of the Merit  
20 System rules and regulations of the city if a  
21 firefighter spoke directly to a media representative  
22 about poor response times or inadequate dispatching  
23 procedures in the city's fire department?

24 A. Yes, sir.

25 Q. Would it be a violation in your view of the

1 Merit System rules and regulations of the city if a  
2 firefighter spoke directly to a media representative  
3 about poor employee morale among the fire personnel  
4 in the fire department?

5 A. Yes, sir.

6 Q. Would it be a violation of the Merit System  
7 rules and regulations of the city if a firefighter  
8 spoke directly to a media representative about any  
9 alleged corruption or misconduct by fire department  
10 officers within the city fire department?

11 A. Yes, sir.

12 Q. And, finally, would it be a violation of  
13 the city's Merit System rules and regulations if a  
14 firefighter spoke directly to a media representative  
15 about public safety in general within the city?

16 A. Yes, sir.

17 Q. Okay. And I take it with regard to that  
18 series of questions that I just asked you about the  
19 rules and regulations, that your position and the  
20 position of the city is that a firefighter must  
21 route any of those expressions of concerns through  
22 the chain of command within the city Fire Department  
23 before they speak to a media representative; is that  
24 correct?

25 A. Yes, sir. We should be given a chance.

1 Q. Turn to Exhibit 16, Chief Hunter, if you  
2 would, please. This appears to be a counseling form  
3 or reprimand addressed to David Davis dated  
4 September 21, 2005. Are you familiar with this  
5 document?

6 A. Yes, sir.

7 Q. It says here -- you'll see at the beginning  
8 here, it says Sergeant Davis was counseled by Chief  
9 Hunter and Assistant Chief Johansen on the 20th of  
10 September 2005 concerning him making or publishing  
11 statements to the local media concerning fire  
12 department issues. And then it goes on further.  
13 You see where it says that?

14 A. Yes, sir.

15 Q. Is this counseling form considered a  
16 written reprimand that's placed in the personnel  
17 file of Mr. Davis?

18 A. It's not a written reprimand. It's just a  
19 counseling form to prevent anything from going any  
20 further. It's almost like a corrective thing if a  
21 person -- basically gives them the chance, benefit  
22 of the doubt that you didn't know. And that's what  
23 this is for.

24 Q. Is there something else in the fire  
25 department that is called a written reprimand?



1 A. Yes, sir.

2 Q. And have you issued those to firefighters?

3 A. Yes, sir. I've had to before.

4 Q. Now, at the end of this memo, it says that  
5 this counseling form for Mr. Davis was placed in his  
6 personnel file. You see where it says that?

7 A. Where you at? 16?

8 MR. GRAHAM: Right here.

9 A. Okay.

10 Q. Yes, right at the bottom.

11 MR. GRAHAM: Last sentence.

12 A. Okay. Yes.

13 Q. So your answer is yes?

14 A. Yes.

15 Q. It appears to be signed by Assistant Chief  
16 Kenneth Johansen; is that correct?

17 A. That's correct.

18 Q. Again, it sounds like you, as the chief of  
19 the department, and Mr. Johansen actually discussed  
20 this situation and counseled Mr. Davis about it; is  
21 that accurate?

22 A. That's correct.

23 Q. And if I understand your testimony  
24 earlier -- and you correct me if I'm wrong -- you,  
25 on your own initiative solely, as the fire chief,

1 began this investigation and these counseling  
2 sessions as a result of the newspaper article that  
3 appeared in the newspaper in September 2005?

4 A. That's correct. I talked to the city  
5 attorney about it.

6 Q. Mr. Graham?

7 A. That's correct. Yes, sir.

8 Q. So you cleared it through him to do this?

9 A. Yes, sir.

10 Q. Did you talk to the city manager,  
11 Mr. Roberts, about investigating this matter?

12 A. Well, that's correct. He knew that I had  
13 to see about it.

14 Q. You had to get his okay to conduct the  
15 investigation?

16 A. Basically not -- not his okay but, you  
17 know, you want the city manager's blessing to make  
18 sure you don't do anything wrong.

19 Q. And did you discuss this with City Manager  
20 Roberts before you conducted the counseling sessions  
21 of Mr. Davis and the other firefighters?

22 A. That's correct.

23 Q. Did he tell you not to do the investigation  
24 and not to do the counseling as a result of the  
25 newspaper article?

1 A. No, sir. Mr. Roberts pretty well let us  
2 run our departments.

3 Q. And did you interview or discuss this  
4 newspaper article with other firefighters as well as  
5 Mr. Davis?

6 A. That's correct.

7 Q. And would that have included William Miles,  
8 Lance Wagner, Sergeant Ann Land, Robert Gaskin,  
9 Sergeant Bowden, and James Wells as well?

10 A. It was the entire department. And, not  
11 only that, it was the entire city.

12 Q. Entire city?

13 A. Yes, sir. Make sure others in the city  
14 didn't make this mistake.

15 Q. Are you telling me that every city employee  
16 was interviewed and counseled about this newspaper?

17 A. Not by me, but they was made aware of this  
18 situation.

19 Q. Do you know if that was put out in some  
20 kind of memorandum form by the city, distributed to  
21 other city employees about communications with the  
22 media?

23 A. I know what was supposed to have been  
24 done. I know what I done in my department.

25 MR. WOODLEY: Could we go off the record

1 for a second?

2 (Discussion held off the record.)

3 MR. WOODLEY: Let's take five.

4 (Brief recess.)

5 MR. WOODLEY: Okay. We're back on the  
6 record.

7 Q. Okay, Chief Hunter. We can go back on the  
8 record after a brief break. And we were talking  
9 about the investigation or review that you and the  
10 city conducted of the firefighters in response to  
11 that newspaper article that came out in September  
12 2005. So that's the context in which we left. Did  
13 you sit in on these individual counseling or  
14 interview sessions of the firefighters that I just  
15 listed their names?

16 A. That's correct.

17 Q. And did the Assistant Chief Johansen sit in  
18 on those interviews as well?

19 A. On the people that was his personnel. We  
20 have three assistant chiefs at the time.

21 Q. Okay.

22 A. And they all have different groups of  
23 firefighters.

24 Q. Now, in Exhibit 16, which is in front of  
25 you, the first two pages are the counseling forms;

1 one which involves Mr. Davis concerning his  
2 statements to the local media, and the one right  
3 after that involves Captain Robert Gaskin,  
4 G-A-S-K-I-N, who received also a counseling form for  
5 his statements to the local media. You see where  
6 both of those documents say that?

7 A. That's correct.

8 Q. And as I understand it -- you correct me if  
9 I'm wrong -- those were the only two individual  
10 firefighters who received these counseling forms as  
11 a result of their comments to the newspaper; is that  
12 correct?

13 A. That's correct.

14 Q. That is correct?

15 A. In this particular, they got -- well,  
16 counseling forms, yes, sir.

17 Q. Did they get something else that you were  
18 about to say?

19 A. No, sir. I said counseling forms, that's  
20 correct.

21 Q. But none of the other firefighters who were  
22 interviewed received counseling forms or any form of  
23 discipline as a result of their comments in the  
24 newspaper; is that correct?

25 A. All of them had to sign the forms, the

1 papers about the articles. Let me read Gaskins and  
2 check this out, make sure.

3 Q. Sure.

4 A. That's correct.

5 Q. Okay. Again, just so the testimony record  
6 is clear, the only two individuals that received  
7 these written counseling forms from the fire  
8 department as a result of statements to the local  
9 media were Mr. Davis and Mr. Gaskin; is that  
10 correct?

11 A. Yes. Counseling form on here with  
12 Mr. Davis was concerning also with the derogatory  
13 statements he made toward Firefighter Brandon  
14 Wilkerson, which Wilkerson took as intimidation, and  
15 it was because of that. And Gaskin being a captain  
16 and a officer -- he was the only officer in there --  
17 he made the comment that basically he would rather  
18 be on the fire truck, I think, in Iraq. And --

19 Q. Okay.

20 A. -- that was the reason.

21 Q. Sergeant Ann Land did not receive a  
22 counseling form as a result of her comments in the  
23 newspaper article; is that correct?

24 A. The only reason these two -- that's  
25 correct. And the only reason these two received it

1 is because, like I say, the harassment of Brandon  
2 Wilkerson and with Gaskin being a officer. Land --  
3 let me -- let me see what she said.

4 Q. She was the one that was quoted as  
5 saying --

6 MR. GRAHAM: His question is, she didn't  
7 get a counseling form.

8 A. Oh. No, she didn't get one.

9 MR. GRAHAM: Doesn't make any difference  
10 what she was saying.

11 Q. To follow up on that, though, she was  
12 quoted in that newspaper article that we looked at,  
13 which was Exhibit 14, as saying that if you're not  
14 happy in your job in the fire department, you leave.

15 A. Well, no. I think if you get that correct  
16 statement, she said someone told her that.

17 Q. So you apparently felt like she didn't need  
18 a counseling form as a result of --

19 A. Someone who had said that to her.

20 Q. Okay. Was there any particular statement  
21 that Mr. Davis made in that newspaper article that  
22 troubled you so much that you wanted to issue this  
23 counseling form to him?

24 A. It was two-fold.

25 Q. I'm just talking about in the newspaper

1 article.

2 A. Newspaper article? Basically --

3 Q. Was his comment about employee morale being  
4 poor, did that prompt you to give him the counseling  
5 form? Or it was some other comment that he might  
6 have made in the newspaper article that caused you  
7 to issue the counseling form?

8 A. Not necessarily that, no. It was mainly  
9 his counseling form, like I say on here, was we  
10 talked about the issues of publications in the paper  
11 and then his harassment of Brandon Wilkerson.

12 Q. And my question is just focusing on his  
13 statements to the local media, just that part of the  
14 equation. Okay? My question is, was there anything  
15 in particular of his comments or quotes in the  
16 newspaper article that caused you to be troubled and  
17 to prompt the investigation and then ultimately  
18 causing the counseling form to be issued to  
19 Mr. Davis?

20 A. The whole thing was troubling.

21 Q. But you can't zero in on his comment about  
22 employee morale or staffing concerns in the  
23 department that caused you to do the investigation  
24 and issue the counseling form to Mr. Davis?

25 A. The main thing was not giving me the



1 opportunity to address it.

2 Q. What is your position as the chief of the  
3 fire department and the Rule 30(b)(6) witness in  
4 this case on the following subject: If a  
5 firefighter has concerns about public safety or  
6 operations in the fire department, or poor morale,  
7 or understaffing, and they exhaust the chain of  
8 command -- they route those concerns up to their  
9 first officer and ultimately to you -- do they then,  
10 after you consider that matter, do they then have  
11 the right to go to the local media and issue and  
12 state those same exact concerns?

13 A. They still don't have the right. But if  
14 they bring them to me, I could guarantee anyone that  
15 I would try to do my best to resolve them.

16 Q. Okay. But in the situation, so I  
17 understand it, Chief Hunter, if a firefighter raises  
18 those issues of safety, staffing, poor morale that  
19 involve the fire department, and he or she routes  
20 those up to you at the highest level in the fire  
21 department, and that firefighter is not satisfied  
22 with what you're doing on it and your response, is  
23 it your position the firefighter at that point would  
24 violate Merit System rules and regulations if he or  
25 she went to the media to express those exact same

1 concerns?

2 A. That's correct.

3 Q. So there's really no circumstances, as far  
4 as you and the city are concerned, in which a  
5 firefighter can go to the media expressing concerns  
6 about safety or response times or staffing or morale  
7 in the fire department, right?

8 A. I guess if it was all-out corruption. But  
9 according to the Merit System, you have to follow  
10 it. But I have never seen that type of conditions  
11 here.

12 Q. Okay. But on the issues of staffing, fire  
13 department equipment and protective gear and  
14 response times, the firefighter at no time can go to  
15 the media and address those issues; is that correct?

16 A. They shouldn't. They should come to the  
17 fire chief. They should have used the chain of  
18 command. You know, use that, and we would explain  
19 to people that we're doing our best and show them --

20 Q. I want to be clear on this. Even after it  
21 goes to you and they're not happy with your response  
22 as the fire chief, do they then have the right, or  
23 would they violate the rules and regulations of the  
24 city, if they then went to the media and expressed  
25 those same concerns?

1 A. They would violate that, but we have never  
2 had that -- I've never had the opportunity.

3 Q. Fair enough. Good enough.

4 Did there come a point in time where you and  
5 the fire department wanted to propose extending the  
6 probationary period for new hires into the fire  
7 department from one year to 18 months?

8 A. That's correct, for new hires.

9 Q. For the new hires only?

10 A. Yes, sir.

11 Q. But that would not have applied and has not  
12 applied to veteran firefighters already working in  
13 the department, correct?

14 A. Wouldn't have disturbed their careers at  
15 all.

16 Q. And so that would not have applied to  
17 Mr. Davis, who had been an 8-year veteran of the  
18 fire department, correct?

19 A. None whatsoever.

20 Q. What prompted that proposed extension of  
21 the 18-month period in the fire department for  
22 probation?

23 A. Retentions and investment of firefighters.  
24 We hire firefighters. State law gives you one year  
25 to train them. We also require that they become